

REMARKS

Claims 1-30 are pending in the application.

Claims 1-30 have been rejected.

No claims have been amended.

Claims 1-30 remain pending in this application.

Reconsideration of the claims is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 1, 3, 6, 8, 16, 18, 21 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,937,019 to *Padovani*, (hereinafter “Padovani”) in view of U.S. Patent No. 6,804,522 to *Lindskog et al.*, (hereinafter “Linskog”). The Applicant respectfully traverses the rejection.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4, October 2005). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Id.

In rejecting independent Claim 1, the Examiner asserted that Padovani teaches an apparatus for supporting dual standards. The Applicant respectfully submits that the Examiner mischaracterizes the teaching of Padovani.

The Examiner argues that Figure 4 of Padovani shows an apparatus for supporting dual standards. In fact, Padovani describes Figure 4 as depicting a cellular communication network with first and second co-located base stations in border coverage areas, respectively associated with first and second cellular systems. *See Padovani, col. 5, lines 54-57.* However, the two co-located base stations "use PN codes offset from one another by a predetermined amount." *Padovani, col. 5, lines 19-22.* That is, the co-located base stations associated with first and second cellular systems both operate on the CDMA standard.

The Examiner cites Padovani, column 1, lines 3-38 and 39-41, as teaching first and second standards, respectively. While Padovani's Description of the Related Art describes differences in handoff procedures between AMPS and CDMA cellular telephone systems, the Applicant respectfully submits that nowhere in Padovani is there a description of a network, system or apparatus employing both AMPS and CDMA standards.

Nor does Lindskog describe an apparatus for supporting dual standards. For these reasons, the Applicant respectfully submits that independent Claim 1 is patentable over the cited references.

Independent Claims 6, 16 and 21 recite analogous limitations to those recited in Claim 1 and therefore also are patentable over the cited references. Claims 3, 8, 18 and 23 depend from Claims 1, 6, 16 and 21, respectively, and include all the limitations of their respective base claims. As such, Claims 3, 8, 18 and 23 also are patentable over the cited references.

REJECTION UNDER 35 U.S.C. § 103

Claims 2, 7, 17 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani and Lindskog and further in view of U.S. Patent No. 6,112,088 to *Haartsen*, (hereinafter “Haartsen”). Claims 3, 8, 18 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani and Lindskog and further in view of U.S. Patent No. 6,141,566 to *Gerdisch et al.*, (hereinafter “Gerdisch”). Claims 4, 5, 9, 10, 19, 20, 24 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani and Lindskog and further in view of U.S. Patent Publication No. 2003/0123479 to *Lee et al.*, (hereinafter “Lee”). Claims 11, 12, 13, 26, 27 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani in view of Lindskog, in view of Haarsen and futher in view of Gerdisch. Claims 14, 15, 29 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Padovani, Lindskog, Haartsen and Gerdisch in view of Lee. The Applicant respectfully traverses the rejections.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4, October 2005). Absent such a prima facie case, the applicant is under no obligation to produce evidence of

nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

As argued with regard to the rejection of independent Claim 1, neither Padovani nor Lindskog describes an apparatus for supporting dual standards. The Applicant submits that the Haartsen, Gerdisch and Lee references do nothing to overcome this shortcoming of the Padovani and Lindskog references. Independent Claims 11 and 26 recite analogous limitations to those recited in Claim 1 and therefore also are patentable over the cited references. Furthermore, Claims 2-5 depend from Claim 1; Claims 7, 9 and 10 depend from Claim 6; Claims 12-15 depend from Claim 11; Claims 17, 19 and 20 depend from Claim 16; Claims 22, 24 and 25 depend from Claim 21; and Claims 27-30 depend from Claim 26, respectively, and include all the limitations of their respective base claims. As such, Claims 2-5, 7, 9, 10, 12-15, 17, 19, 20, 22, 24, 25 and 27-30 also are patentable over the cited references.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckbutrus.com*.

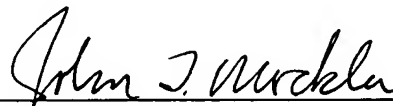
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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